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Leydig, Voit & Mayer, Ltd. (Frankfurt office) Two Prudential Plaza, Suite 4900 180 North Stetson Avenue Chicago, IL 60601-6731			EXAMINER	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* HANS-WERNER BOETTCHER, ECKHARD NAVE  
and HOLGER WAGNER

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Appeal 2010-001788  
Application 10/576,455  
Technology Center 3700

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Before CHARLES N. GREENHUT, MICHAEL C. ASTORINO and  
MICHAEL L. HOELTER, *Administrative Patent Judges*.

HOELTER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 6, 8 and 10. Appellants acknowledge that there are “3 claims pending in [the] application” (i.e. claims 6, 8 and 10)(App. Br. 2), yet Appellants state that the “claim on appeal is claim 6” (App. Br. 3). Claim 8 is an independent claim and claim 10 is dependent on claim 8. Appellants do not contest the rejections of claims 8 and 10. Further, Appellants do not discuss the Examiner’s rejections of claims 8 and 10. The Board does not have jurisdiction as to non-appealed claims. We consider claims 8 and 10 cancelled and not before us for review. The Examiner should cancel the non-appealed claims 8 and 10 and so notify the Appellants when the application is returned to the Examiner. *See* MANUAL OF PATENT EXAMINER PROCEDURE § 1215.03. *See also Ex Parte Ghuman*, No. 2008-1175, 2008 WL 2109842 (BPAI May 1, 2008). We have jurisdiction of claim 6 under 35 U.S.C. § 6(b).

We affirm.

The claims are directed to a method for drying laundry. Claim 6, reproduced below, is illustrative of the claimed subject matter:

6. A method for drying laundry in a laundry dryer having a program control device, a drying chamber and a process air circuit including a fresh air supply passageway and an exhaust air discharge passageway, the process air circuit having disposed therein a heater and a blower for conveying drying air through the drying chamber, the method comprising:

providing a flow dividing device in the process air circuit configured to divide, into an exhaust air component and a recirculated air component, a flow of the drying air;

measuring, by a sensor, at least one of a pressure and a pressure profile in an air stream of the process air circuit in an area where the drying air enters the drying chamber;

evaluating the at least one of the pressure and the pressure profile;

controlling the flow dividing device based on the evaluating so as to reduce or set to zero the recirculated air component and to continue a drying process at a reduced volumetric flow rate of the drying air through the drying chamber; and

reducing a heating power of the heater based on the reduced volumetric flow rate of the drying air.

## REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Weimer	US 3,538,614	Nov. 10, 1970
Freze	US 4,268,247	May 19, 1981
Schregenberger	US 4,326,342	Apr. 27, 1982
Haried	US 4,549,362	Oct. 29, 1985
Heissmeier	DE 2220425	Nov. 15, 1973

## REJECTIONS

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Freze and Schregenberger (Ans. 3).

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Haried and Schregenberger (Ans. 4).

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Heissmeier and Schregenberger (Ans. 5).

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Freze and Weimer (Ans. 7).

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Haried and Weimer (Ans. 8).

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Heissmeier and Weimer (Ans. 9).

### OPINION

The Examiner found that each of Freze, Haried, and Heissmeier disclose the basic method of claim 6 absent the showing of a pressure sensor and a program control module for controlling the shut-off damper based on a measured pressure profile (Ans. 3-10). The Examiner also found that if the incoming cold fresh make-up air of Freze or Haried or Heissmeier “is varied or reduced then, the drying air flow rate will vary or decrease” such that the “heating power will also be reduced since there will be lesser [sic] power needed to maintain the desired high drying temperature” (Ans. 12, 15, 17, 19, 22 and 24). Freze suggests providing a pressure sensor in order to actuate an alarm in the event of a blockage due to lint (Freze 5:67-6:2). Haried recognized the undesirability of excess pressure build up in the system and suggests using dampers to prevent it (Haried 23:36-66).

The Examiner relied on Schregenberger and Weimer to demonstrate that it was known in the art to control a flow dividing device based on evaluating pressure (via a pressure sensor) in an area where drying air enters a drying chamber (Ans. 3, 5-10). The Examiner concluded that it would have been obvious to one skilled in the art to modify the basic devices disclosed by Freze, Haried, or Heissmeier with a pressure sensor and a program control module disclosed by Schregenberger or Weimer “to balance operation of the dryer by maintaining a constant and desired flow rate of the

drying gas to the dryer” and “to control the drying air flow and to maintain a uniformly dried product.” (Ans. 4- 6, 8-10).

Regarding the Examiner’s rejection based on Haried and Schregenberger, Appellants contend that “[n]either of these references describe reducing volumetric flow rate based on an evaluating of a pressure and/or pressure profile” (App. Br. 6, Reply Br. 6). Appellants also contend that “Haried does not teach or suggest a pressure sensor” and that Schregenberger’s pressure-controlled damper “is not used to reduce the flow rate through the oven” (App. Br. 6, Reply Br. 6). Appellants raise similar issues regarding the other rejections of claim 6.

“Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references.” *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). An obviousness analysis may include recourse to the “common sense available to the person of ordinary skill that do[es] not necessarily require explication in any reference.” *Perfect Web Techs., Inc. v. InfoUSA, Inc.*, 587 F.3d 1324, 1329 (Fed. Cir. 2009). Further, an artisan must be presumed to know something about the art apart from what the references disclose. *See In re Jacoby*, 309 F.2d 513, 516 (CCPA 1962).

Schregenberger teaches a pressure sensor 25 that controls a damper 26 for diverting gas in an exhaust line 27 (Schregenberger 4:5-10). Schregenberger further discloses that the hot gas flow from the incinerator may “vary” causing the amount of hot gas in the recirculated mixture to likewise vary (Schregenberger 4:30-33). Thus, if the flow rate in Schregenberger becomes elevated Schregenberger’s dampers would be controlled in response to the sensed pressure to reduce it (Schregenberger

4:26-33). Similarly, Weimer teaches that dampers 20 and 48 control the volume of recycled gas returned to the furnace in response to a pressure sensor (Weimer 5:36-40). We therefore find that Schregenberger and Weimer each teach the claimed step of “controlling the flow dividing device based on [pressure evaluations] Further, since incorporating Schregenberger’s or Weimer’s teachings into Freze, Haried, or Heissmeier would result in essentially the same structure disclosed in Appellants’ preferred embodiment, we find that reducing the recirculated air component would also reduce the flow rate of drying air to the drying chamber.

Claim 6 also requires the step of “reducing a heating power of the heater based on the reduced volumetric flow rate of the drying air.” Appellants contend that “reduction in heating power would not necessarily be present in the respective prior systems” (App. Br. 5, 7, 8, 10-12). Appellants further contend that “there is no suggestion in Schregenberger to reduce the heating power in the incinerator based on any variations in flow caused by use of the damper” and “there is no suggestion in Weimer to reduce the heating power of the combustion chamber based on any variations in the flow of recycled gas” (Reply Br. 4, 7, 9, 11, 13 and 16). Contrary to Appellants assertions, the Examiner relied upon Freze, Haried and Heissmeier (and not Schregenberger or Weimer) for finding that the necessary heating power will be dictated by the properties of the air to be heated, such as its volume (Ans. 12, 15 and 17). The Examiner concluded that the required heating power is proportional to the volume of air to be heated and the required temperature change of that air (*Id.*). We agree with the Examiner that if the incoming cold fresh make-up air of Freze or Haried or Heissmeier “is varied or reduced then, the drying air flow rate will vary or

Appeal 2010-001788  
Application 10/576,455

decrease” such that the “heating power will also be reduced since there will be lesser [sic] power needed to maintain the desired high drying temperature” (Ans. 12, 15, 17, 19, 22 and 24).

#### CONCLUSION OF DECISION

For the above reasons, we affirm the Examiner’s rejections of claim 6.

Further, as stated above, the Examiner is directed to cancel the non-appealed claims 8 and 10 and so notify the Appellants when the application is returned to the Examiner.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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